

REMARKS

Claims 1-2 and 4-45 are currently pending. The Office has indicated that claims 1-2 and 4-8 are allowable, and that previously withdrawn claims 9-13 have been rejoined and are now examined. Claims 14-45 remain withdrawn as being directed to non-elected subject matter. Claims 10-12 and 14 have been amended herein and claim 16 has been cancelled. Support for the amendment to claims 10-12 can be found in the specification in Experiments 1 and 2, and specifically in Table 6 on page 26.

The Office has indicated that withdrawn claims 14-45 do not require all the limitations of an allowable product claim and have thus not been rejoined. Applicants have now amended withdrawn claim 14 to include all the limitations of allowed claim 1.¹ Since claim 14, and claims 15 and 17-24 which depend therefrom, now contains all the limitations from allowed product claim 1, applicants request claims 14-15 and 17-24 also be rejoined in the instant application.

Applicants respectfully request reconsideration and allowance of all pending claims.

Rejection of the claims under 35 U.S.C. §112, first paragraph

Reconsideration is requested of the rejection of claims 9-13 under 35 U.S.C. §112, first paragraph, as lacking enablement. Specifically, the Office has indicated that the specification,

while being enabling for treating the listed ailments when the ratio range of omega-6/omega-3 is 0.73-0.61 does not reasonably provide enablement for a ratio range of 0.25:1 to 3:1.

Claim 9 is directed to a product comprising the lipid system of claim 1, wherein the product is selected from the group consisting of a liquid nutritional product, a solid nutritional product, a semi-solid nutritional product, a product provided as an emulsion, a nutritional product provided as a powder, and a product provided as a soft gelatin capsule. Claim 13 is directed to a method for providing nutrition to an individual comprising administering the nutritional product of claim 9.

Initially, Applicants note that in order to satisfy the enablement requirement, the specification need only disclose sufficient information to enable one skilled in the art to make and use the invention without undue experimentation.² In the instant case, applicants submit that one skilled in the art would readily understand how to make and use the product of claim 9 without undue experimentation.

Specifically, applicants note that the specification provides guidance on how to prepare and use products as set

¹ Support for the amendment to claim 14 can also be found in the specification on page 7 lines 1-2 and in cancelled claim 16.

² "[T]he specification must teach those skilled in the art how to make and use the full scope of the claimed invention without 'undue experimentation'...All that is necessary is that one skilled in the art be able to practice the claimed invention, given the level of knowledge and skill in the art." MPEP §2164.08.

forth in claim 9. For instance, page 17 of the instant application describes how to manufacture nutritional products, including liquid and powdered nutritional products (see p. 17, lines 5-13) and solid nutritional compositions (see p. 17, lines 14-31); Example B describes how to manufacture a semi-solid nutritional product; preparation of a product provided as an emulsion is described on page 11, line 32 to p. 12, line 11; and preparation of a product in the form of a soft gelatin capsule is described on page 12, line 20 to page 13, line 29. The specification also provides information on administering such products to an individual to provide nutrition (see p. 11-17 generally).

Given these disclosures, applicants submit that the products of claim 9 and the method of claim 13 have been enabled under 35 U.S.C. §112, first paragraph.

As amended, claims 10-12 are directed to a method for improving the glucose tolerance of a glucose intolerant individual, a method for improving the insulin sensitivity of an insulin resistant individual, and a method for reducing the risk of vascular disease in an individual at risk for vascular disease, respectively, the methods comprising administering the lipid system of claim 1, wherein the ratio of omega-6 fatty acids to alpha-linolenic acid (C18:3n-3) in the lipid system is from about 0.61:1 to about 0.73:1.

Applicants respectfully submit that amended claims 10-12 have been enabled. Specifically, the specification in

Experiments I and II describes studies evaluating the effect of various omega-3, omega-6, and omega-9 fatty acid compositions on glucose control, insulin sensitivity, and vascular function in animal models. As can be seen from Table 6, the ratio of omega-6/omega-3 in the tested oil blends in Experiment 1 was 0.61:1, 0.69:1, or 0.73:1. The specification further describes glucose intolerant individuals and how improvements in glucose tolerance can be assessed (see specification at p. 10, lines 3-12), describes insulin resistant individuals and how insulin sensitivity can be assessed (see specification at p. 10, lines 13-21), and describes how vascular disease in an individual at risk for vascular disease can be reduced, types of vascular function that can be impaired, and methods for testing an individual to determine if vascular disease has decreased (see specification at p. 10, line 22 to p. 11, line 2). Applicants further note that the Office has indicated that the specification is enabling for treating the ailments listed in claims 10-12 when the ratio of omega-6 fatty acids to omega-3 fatty acids is 0.61:1 to 0.73:1. Since claims 10-12 have been amended to require the ratio of omega-6 fatty acids to alpha-linolenic acid (C18:3n-3) in the lipid system be from about 0.61:1 to about 0.73:1, applicants submit that claims 10-12, as amended, are enabled under 35 U.S.C. §112, first paragraph.

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CONCLUSION

In light of the foregoing, Applicants request withdrawal of the rejections of claims 9-13 and allowance of all pending claims. The Commissioner is hereby authorized to charge any fees required in connection with this Amendment F to Deposit Account Number 01-2384 in the name of ARMSTRONG TEASDALE LLP.

Respectfully Submitted,

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